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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,667	07/16/2004	Adrian Blagg	102792-317	2305
27389	7590	11/29/2006	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			DOUYON, LORNA M	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,667

Applicant(s)

BLAGG ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 22-35 is/are rejected.
- 7) ☒ Claim(s) 19-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. Claims 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 is indefinite because it is not clear how the dilutable cleaning composition is used. It is suggested that positive steps be recited rather than the term “using”.

Claim 35 recites a step of applying a quantity of a dilutable cleaning composition..., however, the claim fails to recite whether this claim is a composition or a method claim. Presumably, this claim is a method claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Knapp et al. (US Patent No. 3,255,117), hereinafter “Knapp”.

Knapp teaches a dry, low-foaming dishwashing composition comprising alkali silicate and sodium polyphosphate (see col. 4, lines 11-36), wherein the pH of the dishwashing solution containing the composition may vary considerably, as for example, from about 10 to 12, and the preferred pH of the aqueous dishwashing solution containing 0.3% of the dishwashing

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composition is about 10.5, or, from about 10.0 to 11.0 (see col. 4, lines 10-15). Knapp teaches the limitations of the instant claim. Hence, Knapp anticipates the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18, 22, 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennie et al. (WO 00/04117), hereinafter "Bennie".

Bennie teaches a multiphase detergent tablet for use in a washing machine, i.e., automatic dishwashing or laundry washing machine (see page 2, lines 26-28), the tablet comprising: a first phase comprising alkalising agent, and a second phase comprising acidifying agent, and wherein the multi-phase tablet has an initial pH of at least 9, preferably at least 9.5 and a pH rate change index (ΔpH) of no more than about 0.15 units/min (see abstract). In preferred embodiments, the multi-phase detergent tablets of the invention contain silicate alkalizing agent and acid in a weight ratio of at least about 1:1 (see page 3, last paragraph). The pH profile of the detergent tablet is generally measured in an automatic washing machine in the presence of a conventional soil load, the initial pH herein being taken to be the pH of the wash medium at 1 minute after the start of dissolution and the pH rate change index being taken to be the average pH change/minute between 1 and 5 minutes (see page 4, last paragraph to page 5, line 4). The first phase comprises

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sodium silicate, polyphosphate, zeolite and/or polycarboxylate builders, carbonate and/or bicarbonate, and amorphous silicate (see page 5, lines 5-13). The first phase is in the form of a shaped body having at least one mould therein; and the second phase is in the form of a particulate solid compressed within said mould (see page 6, third full paragraph). It is preferred that at least one phase of the tablet dissolves in the wash water within the first ten minutes, preferably five minutes of the wash cycle of an automatic dishwashing or laundry washing machine (see page 7, lines 10-12). Preferred alkalising agents have a pH in 1% aqueous solution or dispersion (25°C) of at least about 9, preferably at least about 10; preferred acidifying agents, on the other hand have a pH under similar conditions of less than about 6.5 (see page 11, lines 10-16). Preferred acids include inorganic acids such as sulphamic acid and carboxylic acids such as citric acid (see page 8, lines 23-25). The tablets of the invention also include one or more additional phases which include at least one acidifying agent (see page 8, lines 3-5). The tablet composition also contains surfactants, and bleaches (see page 6, 4th line from last), in particular, the first phase comprises sodium perborate (PB1), see Examples 1-IV on page 17), which corresponds to the antimicrobial component of the present claims, and which bleaching effect is produced upon dissolution in water, and would also be produced on change in pH because similar components have been utilized. A barrier layer is also located between the first and second phase, which reads on the coating of the present claims, and the barrier layer comprises at least one binder like polyethylene glycol (see col. 9, lines 9-17; 23-29), which also reads on the dissolution or dispersion retarder of the present claims. Please note that prior to tableting the first and second phases are in powder form. Bennie, however, fails to disclose the pH being lowered to a pH of not more than 4.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the pH of the second phase which include acidifying agents, or optimize the pH rate change index, to a pH of not more than 4 through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges “overlap or lie inside ranges disclosed by the prior art”, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff*, 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennie as applied to the above claims, and further in view of Waschenbach et al. (WO 00/06682), hereinafter “Waschenbach”. (Please note that the English equivalent of this reference which is US Patent No. 6,514,429 will be used as the English translation.)

Bennie teaches the features as described above. Bennie, however, fails to disclose the incorporation of an indicator which changes color on change of pH of the water.

Waschenbach, in an analogous art, teaches a tablet and a core or cores wherein the core comprises pH indicators (see abstract; col. 6, lines 20-22) to determine whether the acid has been completely rinsed out (see col. 9, lines 60-67).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a pH indicator into the tablet of Bennie because such addition would determine whether the acid has been completely rinsed out as taught by Waschenbach.

Allowable Subject Matter

7. Claims 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record teaches a multi-phase tablet, and there is seen no motivation, direction or guidance to prepare this composition in the form as required in the present claims, i.e., a dispersion or suspension of a particulate component in a liquid carrier.

Conclusion

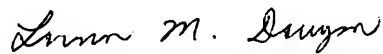
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Lorna M. Douyon
Primary Examiner
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